

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 TRSE-00 L-03 COME-00 OPIC-03

XMB-02 AID-05 AGRE-00 IGA-02 JUSE-00 PA-01 PRS-01

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 8436

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E.O. 11652: N/A

TAGS: EINV, AR

SUBJECT: INVESTMENT DISPUTE: TO PR LSOORT ON DELTEC CASE

REF: BUENOS AIRES 6401

1. THE SUPREME COURT DECISION DESCRIBED REFTEL REPRESENTED A MAJOR BREAKTHROUGH IN THE DELTEC CASE,. PROTECTING THE LA ESPERANZA SUGAR MILL FROM THE SWIFT BANKRUPTCY PROCEEDINGS. HOWEVER, THE LIQUIDATION OF SWIFT HAS ENCOUNTERED THE FOLLOWING DIFFICULTIES:

A) LACK OF INTEREST BY BUYERS. THERE WERE NO BIDS AT FIRST AUCTION OF SWIFT PROPERTIES, POSSIBLY BECAUSE THE BASE PRICES WERE SET TOO HIGH. SUBSEQUENTLY, A SMALL PROPERTY IN TUCUMAN WAS SOLD BUT A PRIVATE OFFER FOR A LARGE PORTION OF THE ASSETS FAILED TO MATERIALIZE. DELTEC'S LOCAL LAWYERS BELIEVE IT WILL BE DIFFICULT TO FIND BUYERS FOR SWIFT AS A GOING CONCERN.

?) NEW GOA LEGISLATION ON BANKRUPTCIES. THE GOA HAS JUST PASSED A NEW LAW ON BANKRUPTCIES (LAW 21488) WHICH PROVIDES FOR INDEXING OF THE DEBT OF BANKRUPT FIRMS, INCLUDING DEBT TO THE GOVERNMENT INCURRED SINCE IT TOOK OVER MANAGEMENT OF THE FIRMS. WHEN
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DELTEC WAS APPRISED ABOUT PROPOSED BANKRUPTCY LAW, IT SENT LETTERS TO MINISTER OF ECONOMY MARTINEZ DE HOZ AND SECRETARY OF PLANNING AND COORDINATION WALTER KLEIN ASKING FOR EXEMPTION FOR DELTEC IN THE APPLICATION OF THIS LAW. DELTEC'S ARGUMENT IS THAT IF IT HAD BEEN PERMITTED TO SELL SWIFT IN 1971, IT WOULD HAVE BEEN ABLE TO PAY ALL CREDITORS AND AT THE SAME TIME HAVE \$17 MILLION LEFT OVER FOR THE SHAREHOLDERS. SUBSEQUENT GOA CREDITS TO SWIFT

AT INDEXED DOLLAR EQUIVALENT WOULD TOTAL AROUND \$40 MILLION,
LEAVING THE U.S. SHAREHOLDERS NOTHING AND, UNLESS PRIVATE CREDITORS
ARE GIVEN PRIORITY, COULD REDUCE DISPOSABLE FUNDS TO PAY THEM.

2. ACTION REQUESTED: WOULD APPRECIATE DEPARTMENT INFORMING
GOVERNOR CONNALLY THAT GOA HAS PASSED BANKRUPTCY LAW PROVIDING
FOR INDEXATION OF DEBT.

HILL

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Message Attributes

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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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Disposition History: n/a
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